IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1638 of 2001

to

FIRST APPEAL No 1657 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

SPECIAL LAND ACQUISITION OFFICER

Versus

GHELABHAI PRAVATBHAI

Appearance:

MS RV ACHARYA AGP for Appellants

MR NITIN M AMIN for Respondent-Claimants.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 04/05/2001

C.A.V. JUDGEMENT

(Per : MR.JUSTICE D.H.WAGHELA)

1. These First Appeals 20 in number under Section 54 of the Land Acquisition Act, 1894 ('the Act' for short) read with Section 96 of the Code of Civil Procedure are preferred against the common judgment and order dated 28.12.1999 passed by the learned 2nd Extra Assistant Judge and Special Judge (LAR), Ahmedabad (Rural) in Land Acquisition Case No.2526 of 1996 (main) and other cognate References.

2. The lands of Village Chandarva, Taluka Dhandhuka, District Ahmedabad were acquired for the purpose of construction of Narmada Project Limbdi Branch Canal for which the notification under Section 4 was published in the Government Gazette on 28.1.1992. The Special Land Acquisition Officer had fixed the market price of the lands @ Rs.0.75 and Rs.1.12 per sq. mtr. by his order dated 4.12.1995. The claimants, who are the respondents herein, sought Reference under Section 18 and claimed Rs.30/- per sq. mtr. as compensation for the acquired lands. One of the claimants deposed before the trial Court at Ex.38 to state that there were facilities of water, light, school, telephone etc. in that village and the lands had irrigation facilities. It was also deposed that the claimants were taking three crops and earning Rs.7,000/- to Rs.8,000/- per bhiga as net agricultural income from the acquired lands. The lands in question are situated in the western part of Dhandhuka taluka wherein the other villages like Ranpur, Dharapipla, Kinara, Sundariyana, Botavna etc. were also situated. According to the deposition of another claimant at Exh.39, a road connecting Patana-Sundariyana, Jalia, Golvata and Saranpur was constructed in 1979-80 and a road connecting Limbdi-Botad and Ranpur was constructed in 1984-85. It was deposed that the outskirts of villages Saranpur, Khambhada, Kudan Vahiya, Ranpur, Golwata, Rojida, Vejalka, Chandarva, Sundariyana, Kinara etc. were situated within 5 kms. of each other and three crops of cotton, wheat, tal, jiru etc. were taken in most of these villages. The Executive Engineer, Narmada Yojna was examined at Exh.57 on behalf of the opponents, who deposed that village Chandarva was 20 kms. away from the taluka place and there were no industrial or residential societies in this village. However, he expressed his ignorance about the exact location of the acquired lands. The Land Acquisition Officer was also examined at Exh.59, who deposed that after hearing the claimants and considering sale instances of last five

years, the award of appropriate compensation was made.

3. By way of documentary evidence, the judgments in the land acquisition cases arising from acquisition of lands from the adjoining villages, such as, Ranpur, Khas, Dharapipla, Saranpur, Barvara, Kinara and Patana were produced. The claimants contended before the trial Court that the lands of villages Ranpur, Khas, Dharapipla, Saranpur, Barvara, Kinara and Patana were equal in fertility and in cases of acquisition of lands from those villages, awards were made fixing the market price at Rs.12.50, Rs.13/- and Rs.17/- per sq. mtr. wherein the notifications under Section 4 of the Act were published in the years 1982, 1984, 1986 and 1988. Having regard to the date of notification under Section 4 in the present case, which is in the year 1992, and the awards in respect of the lands of adjoining villages of Ranpur, Khas, Saranpur, Dharapipla and Barvara and the fact that the village Chandarva is situated between the village Patana and Barvala and Khas, the market value of the lands was fixed at Rs.26/- per sq. mtr.

4. While arguing these appeals, the learned Assistant Government Pleader for the appellants and the learned counsel for the claimants conceded that these appeals were covered by the earlier decisions of this Court in First Appeals No.2550 to 2584 of 2000 decided on 16.10.2000 and in First Appeals No.1262 to 1289 of 2001 decided on 21.3.2001 as also First Appeals No.1580 to 1597 of 2001 decided on 4.4.2001. In the first group of appeals No.2550 to 2584 of 2000, the market price of lands of village Vahiya acquired for the same purpose was in issue wherein the notification under Section 4 was issued in 1994 and the Reference Court had awarded compensation @ Rs.28/- per sq. mtr. which, after a detailed discussion of evidence, was upheld while dismissing the appeals. In First Appeals No.1262 to 1289 of 2001, lands of village Sundariyana were acquired for the same project, the notification under Section 4 was issued in October 1992 and compensation @ Rs.28/- per sq. mtr. was upheld while ordering deduction of 5% Government share under Section 11-A of the Act. Similarly, this Court has, in First Appeals No.610 to 616 of 2001, wherein lands were acquired from the village Rojid, upheld the rate of Rs.28/- per sq. mtr.

5. Accordingly, considering the evidence on record as regards the annual yield of the lands in question and the market value fixed for the lands acquired from the outskirts of the other adjoining villages, we find no reason to interfere with the impugned judgment and order

awarding compensation @ Rs.26/- per sq. mtr. It was fairly conceded on behalf of the parties that the question of deduction of 5% from the compensation in respect of the new tenure lands in accordance with the provisions of Section 11-A of the Act as amended by the State of Gujarat by the Amendment Act 20 of 1965 does not arise in these group of appeals as no new tenure lands were acquired.

6. In the result, all these appeals are hereby dismissed. The impugned order is confirmed and remains intact. There shall be no order as to costs.

7. It is expected that the due amount of compensation with the modification as above shall be paid to the respondent-claimants as expeditiously as possible and preferably within three months of the service of this order upon the authorities concerned.

Sd/-
(M.R.Calla, J.)

Sd/-
(D.H.Waghela, J.)
(KMG Thilake)